REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

I. Disposition of Claims

Claims 1-4, 6, 9, 13, 20-22, 25-29, 31, 34-36, 39, and 43-53 are pending in this application. Claims 1, 20, 39, and 52 are independent. The remaining claims depend, directly or indirectly, from claims 1, 20, 39, and 52.

II. Claim Objections

Claims 1, 39, and 51 have been amended in this reply to correct minor informalities. Claims 1 and 51 have been amended from "a receiver decoder" to "a receiver/decoder" to correct a typographical error. Additionally, claim 39 has been amended from "an" to "a" to correct a grammatical error.

Further, claims 44 and 51 were objected to under 37 C.F.R. §1.75(c), as being improper dependent form for failing to further limit the subject matter of a previous claim. Claims 44 and 51 have been amended from "a transmission system" to "a receiver/decoder," so that the dependent claims do not have a scope wider than the claim from which it depends. Accordingly, withdrawal of these objections is respectfully requested.

III. Rejections under 35 U.S.C § 103

Claims 1, 2, 9, 20, 21, 26, 27, 31, 39, 43, 46, and 51 were rejected under 35 U.S.C. § 103(a) as being obvious over European Patent No. 0 680 213 A2 ("Menand '213") in view of U.S. Patent No. 6,006,039 ("Steinberg"). Claims 1, 20, and 39 are independent. Claims 2, 9, 21, 26, 27, 31, 39, 43, 46, and 51 depend, directly or indirectly, from claims 1, 20, and 39. This rejection is respectfully traversed.

Present Invention

The present invention includes a receiver for receiving a bitstream and a storage means. Additionally, the receiver decoder includes a downloading means for downloading a loader in the storage means, which in turn loads the software in native code from the bitstream.

In another aspect, the present invention relates to receiving a bit stream, which includes software in native code; downloading a loader in native code; using the loader to download the software in native code; and storing the software in native code.

Menand '213

Menand '213 does not teach or suggest the claimed invention for several reasons as detailed below. First, Menand '213 does not teach downloading a loader and using said loader to download software as recited in the claims. Secondly, Menand '213 does not teach using native code, as acknowledged by the Examiner. Finally, Menand '213 expressly teaches away from downloading native code.

Autostart Module Not a Loader

With respect to the first issue, Menand '213 does not teach downloading a loader in native code for loading software in native code. Menand '213 generally relates to a

method for controlling the execution of an audio video interactive program.

In Menand '213, the system loader executes API calls to the flow operating system. The API calls initiate a scan of an AVI data component, which will initiate the AVI program, namely, an autostart module. Menand '213 states, "the autostart module performs the remainder of the initialization and begins execution of the AVI program. This program may possibly load other code and data modules and chain to another code module, all via API calls," (col. 7, ll. 46-48) (emphasis added). Thus, according to Menand '213, "this program" refers to the AVI program that loads other code or data modules, *not* the autostart module.

Further, the AVI program uses the interpreter and/or the system loader to execute the API calls to load other code and data modules. For example, Menand '213 states, "the above mentioned API includes functions for accessing the data stream by the application program, via the interpreter, or by the system loader," (col. 13, ll. 9-11) (emphasis added). In other words, ultimately the interpreter or system loader initiates the API calls, which load other code or data modules, not the AVI program, and certainly not the autostart module. Claims 1, 20, and 39 require a loader in native code for loading software in native code from the bitstream. Because the autostart module does not load other code or data modules from the bitstream, the autostart module *cannot* be a loader for downloading software in native code as recited by independent claims 1, 20, and 39.

Native v. Intermediate Code

The Examiner recognizes that Menand '213 does not teach that a loader and software are *in native code* (*i.e.*, hardware specific code, which is directly executable by the microprocessor), as required by the claims. The Applicant agrees with the Examiner

and submits that Menand '213 expressly teaches away from using native code.

In discussing the generalities of the AVI broadcast system, Menand '213 states, "in the proposed AVI broadcast system, different decoders may use CPUs using different instruction sets,... In this system, the application program is processor independent intermediate code" (col. 6, ll. 23-27) (emphasis added). The description of the code used by the system as taught by Menand '213 is in direct contrast of the definition of native code.

Additionally, Menand '213 uses a software component specifically for reading instructions in intermediate code. For example, Menand '213 states, "That interpreter will read the AVI data component instructions in intermediate code from RAM 412, and manipulate memory, and interact with the hardware through other software components via an application programming interface (API)," (col. 6, ll. 32-41). Therefore, Menand '213 teaches away from using native code as required by claims 1, 20, and 39 by translating intermediate code.

Because Menand '213 teaches away from using native code, it would be improper to combine Menand '213 with any reference that teaches the use of native code.

Steinberg

Steinberg was cited in combination with Menand '213. Steinberg is non-analogous art. Furthermore, even assuming *arguendo* that Steinberg is analogous art, the combination is still improper, because Menand '213 explicitly teaches away from such a combination. Finally, even if the two references are combined, neither shows or suggests a loader in native code.

According to MPEP §2141(a), "in order to rely on a reference as a basis for

rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned." In the first aspect of the above test, Steinberg teaches a method for downloading native code from a camera to an external means, *e.g.*, a personal computer system. In contrast, the present invention relates to a receiver/decoder in an audiovisual transmission system, which is in an entirely different field than Steinberg.

In the second aspect of the test, the reference must be pertinent to a particular problem with which the invention is concerned. In one or more embodiments, the present invention is concerned with the improving bootstrap loaders in audiovisual transmission systems, whereas Steinberg is concerned with configuring a camera through a personal computer system. Because Steinberg does not meet either test, Steinberg is non-analogous art.

Also, regardless of whether Steinberg is considered analogous art, as previously mentioned, Menand '213 teaches away from any reference that uses native code, *i.e.*, Menand '213 teaches using intermediate code, which is not processor specific. Because Steinberg teaches downloading native code, it would be improper to combine Menand '213 with Steinberg.

Finally, the combination of Menand '213 and Steinberg fails to teach all of the elements of the claim, because neither Menand '213 nor Steinberg teaches a loader in native code for loading software in native code from a bitstream, as required by the claims.

Because Steinberg fails to teach that which Menand '213 lacks, Menand '213 and

Steinberg do not render the claimed invention obvious. Further, Steinberg is an improper reference, being non-analogous art. Therefore, claims 1, 20, and 39 are patentable over Menand '213 and Steinberg, whether considered separately or in combination. Thus, claims 2, 9, 21, 26, 27, 31, 39, 43, 46, and 51 are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Bowen, Bestler, Metz, Menand '216, Hearing

Dependent claims 3, 4, 13, 22, 23, 28, 29, 34-36, 44, 45, 47-50, 52, 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213 and Steinberg in view of U.S. Patent No. 5,367,571 ("Bowen"), U.S. Patent No. 5,608,732 ("Bestler"), U.S. Patent No. 5,666, 293 ("Metz"), European Patent No. 0 680 216 ("Menand '216"), or U.S. Patent No. 5,787,017 ("Hearing"). As stated above, Menand '213 and Steinberg fail to teach the claimed invention as recited in amended claims 1, 20, and 39. The cited references fail to provide that which Menand '213 and Steinberg lack with respect to independent claims 1, 20, and 39. These rejections are respectfully traversed.

With respect to Bowen, claims 3, 4, 22, and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213, Steinberg, and Bowen. Bowen teaches a subscriber terminal with a plug-in expansion card, which is a non-volatile memory. Furthermore, Bowen is completely silent to a downloading a loader in native code, which, in turn, downloads software in native code, as required by independent clams 1, 20, and 39. Therefore, Menand '213, Steinberg, and Bowen fail to teach the claimed invention, and thus, clams 1, 20, and 39 are patentable over Menand '213, Steinberg, and Bowen, whether considered separately or in combination. Thus, claims 3, 4, 22, and 23, being dependent, are likewise patentable for at least the same reasons. Accordingly,

withdrawal of this rejection is respectfully requested.

With respect to Bestler, claims 6 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213 in view of Steinberg, and further in view of Bestler. Bestler relates to a mechanism for loading and replacing a record (or group of records) within a record set, or indicating that the record may be stored at the user's discretion, however, Bestler is completely silent to downloading a loader as recited in claims 1, 20, and 39. Therefore, Menand '213, Steinberg, and Bestler fail to teach the claimed invention, and thus, claims 1, 20, and 39 are patentable over Menand '213, Steinberg, and Bestler, whether considered separately or in combination. Thus, claims 6 and 25, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Regarding Metz, claims 29 and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213 in view of Steinberg, and further in view of Metz. Metz teaches "versioning" of operating systems, but is completely silent to downloading a loader as required by claims 1, 20, and 39. Therefore, Menand '213, Steinberg, and Metz fail to teach the claimed invention, and thus, claims 1, 20, and 39 are patentable over Menand '213, Steinberg, and Metz, whether considered separately or in combination. Thus, claims 29 and 49, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

With respect to Menand '216, claims 28, 47, 48, and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213, in view of Steinberg, and further in view of Menand '216. Menand '216 teaches a method for formulating an

interactive TV signal. There is no disclosure or suggestion of downloading a loader as required by claims 1, 20, 39, and 52. Therefore, Menand '213, Steinberg, and Menand '216 fail to teach the claimed invention, and thus, claims 1, 20, 39, and 52 are patentable over Menand '213, Steinberg, and Menand '216, whether considered separately in or in combination. Thus, claims 28, 47, 48, and 50, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213, in view of Steinberg and Menand '216, and further in view of Hearing. Hearing teaches a data acquisition apparatus and is completely silent to downloading a loader as required by claims 1, 20, 39, and 52. Therefore, Menand, Steinberg, Menand '216 and Hearing fail to teach the claimed invention, and thus, claims 1, 20, 39, and 52 are patentable over Menand, Steinberg, Menand '216, and Hearing, whether considered separately or in combination. Thus, claim 13, being dependent, is likewise patentable for at least the same reasons.

Claims 34, 35, 36, 44, 45, 52, and 53 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Menand '216 in view of Menand '213 and Steinberg. As mentioned, Menand '216 teaches a method for formulating and interactive TV signal, but is completely silent to downloading a loader in native code, which in turn downloads software in native code. Again, Menand '213 and Steinberg fail to provide this feature. Therefore, Menand '216, Menand '213, and Steinberg fail to teach the claimed invention, and thus, claims 1, 20, 39, and 52 are patentable over Menand '216, Menand '213, and Steinberg, whether considered separately or in combination. Thus, claims 34,

35, 36, 44, 45, and 53, being dependent, are likewise patentable for at least the same reason. Accordingly, withdrawal of this rejection is respectfully requested.

IV. Conclusion

Applicant believes this reply to be fully responsive to all outstanding issues and place this application in condition for allowance. If this belief is incorrect, or other issues arise, do not hesitate to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345.011001).

Respectfully submitted,

Date: 10/6/03

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